

non-resident voters to be given as evidence in their own behalf, the declaration of all who came up the Missouri River as emigrants, in March, 1855, whether they voted or not, and whether they came into the Territory at all or not; and also the rumors which were circulated among the people of Missouri previous to the election. The great body of the testimony taken at the instance of the sitting delegate is of this character.

When the declaration of parties passing up the river were offered in evidence, your Committee received them upon the distinct statement that they would be excluded unless the persons making the declarations were by other proof shown to have been connected with the elections. This proof was not made, and therefore much of this class of testimony is incompetent by the rules of law, but is allowed to remain, as tending to show the cause of the action of the citizens of Missouri. The alleged causes of the invasion of March, 1855, are included in the following charges:

I. That the New England Aid Society of Boston, was then importing into the Territory large numbers of men, merely for the purpose of controlling the elections. That they came without women, children or baggage, went into the Territory, voted and returned again.

II. That men were hired in the Eastern or Northern States, or induced to go to the Territory solely to vote, and not to settle, and by so doing to make it a Free State.

III. That the Governor of the Territory purposely postponed the day of election to allow this emigration to arrive, and notified the Emigrant Aid Society, and persons in the Eastern States, of the day of election, before he gave notice to the people of Missouri and the Territory.

That these charges were industriously circulated; that grossly exaggerated statements were made in regard to them; that the newspapers and leading men in public meetings in Western Missouri, aided in one case by a chaplain of the United States Army, gave currency and credit to them and thus excited the people, and induced many well-meaning citizens of Missouri to march into the Territory to meet and repel the alleged Eastern paupers and Abolitionists, is fully proven by many witnesses.

But these charges are not sustained by the proof.

In April, 1854, the General Assembly of Massachusetts passed an act entitled "An Act to incorporate the Massachusetts Emigrant Aid Society." The object of the Society, as declared in the first section of this act, was "for the purpose of assisting emigrants to settle in the West." The moneyed capital of the corporation was not to exceed six millions of dollars, but no more than four per cent. could be assessed during the year 1854, and no more than ten per cent. in any year thereafter. No organization was perfected, or proceedings had, under this law.

On the 25th day of July, 1854, certain persons in Boston, Massachusetts, concluded articles of agreement and association for an Emigrant Aid Society. The purpose of this Association was declared to be "assisting emigrants to settle in the West." Under these articles of association each stockholder was individually liable. To avoid this difficulty, an application was made to the General Assembly of Massachusetts for an act of incorporation, which was granted. On the 21st day of February, 1855, an act was passed to incorporate the New England Emigrant Aid Company. The purpose of this act was declared to be "directing emigration westward, and aiding and providing accommodations for the emigrants after arriving at their place of destination."—The capital stock of the corporation was not to exceed one million of dollars. Under this charter a company was organized.

Your Committee have examined some of its officers, and a portion of its circulars and records to ascertain what has been done by it. The public attention at that time was directed to the Territory of Kansas, and emigration naturally tended in that direction. To ascertain its character and resources, this Company sent its agent into it, and the information thus obtained was published. The company made arrangements with various lines of transportation, to reduce the expense of emigration into the Territory, and procured tickets at the reduced rates. Applications were made to the Company by persons desiring to emigrate, and when they were numerous enough to form a party of convenient size, tickets were sold to them at the reduced rates. An agent acquainted with the route was selected to accompany them. Their baggage was checked, and all trouble and danger of loss to the emigrant in this way was avoided.

Under these arrangements, companies went into the Territory in the fall of 1854, under the articles of association referred to. The Company did not pay any portion of the fare, or furnish any personal or real property to the emigrant. The Company during 1855, sent into the Territory from eight to ten saw mills, purchased one hotel in Kansas City, which they subsequently sold, built one hotel at Lawrence, and owned one other building in that place. In some cases, to induce them to make improvements, town lots were given to them by town associations in this Territory. They held no property of any other kind or description. They imposed no condition upon their emigrants, and did not inquire into their political, religious, or social opinions. The total amount expended by them, including the salaries of their agents and officers, and the expenses incident to all organizations, was less than one hundred thousand dollars.

Their purposes, as far as your Committee can ascertain, were lawful, and contributed to supply those wants most experienced in the settlement of a new country.

The only persons or company who emigrated into the Territory under the auspices of the Emigrant Aid Society in 1855, prior to the election in March, was a party of 159 persons who came under the charge of Charles Robinson.

In this party there were 47 women and children. They came as actual settlers, intending to make their home in the Territory, and for no other purpose. They had about their persons but little baggage; usually sufficient clothing in a carpet sack for a short time. Their personal effects, such as clothing, furniture, &c., was put into trunks and boxes, and for convenience in selecting and cheapness in transportation, was marked "Kansas party baggage, care of B. Slater, St. Louis." Generally this was consigned as freight in the usual way, to the care of a commission merchant. This party had, in addition to the usual allowance of one hundred pounds to each passenger, a large quantity of baggage on which the respective owners paid the usual extra freight. Each passenger or party paid his or their own expenses; and the only benefit they derived from the Society, not shared by all the people of the Territory, was the reduction of \$7 in the price of fare, the convenience of travelling in a company instead of alone, and the cheapness and facility of transporting their freight through regular agents. Subsequently, many emigrants, being either disappointed

ed with the country or its political condition, or deceived by the statements made by the newspaper, and by the agents of the Society, became dissatisfied and returned, both before and after the election, to their old homes. Most of them are now settlers in the Territory. Some few voted at the election in Lawrence, but the number was small. The names of these emigrants have been ascertained, and — of them were found upon the poll-books. This company of peaceful emigrants, moving with their household goods, was distorted into an invading horde of pauper Abolitionists, who were, with others of a similar character, to control the domestic institutions of the Territory, and then overturn those of a neighboring powerful State.

In regard to the second charge:—There is no proof that any man was hired or induced to come into the Territory from any free State, merely to vote. The entire emigration in March, 1855, is estimated at 500 persons, including men, women and children. They came on steamboats up the Missouri River, in the ordinary course of emigration. Many returned for causes similar to those before stated, but the body of them are now residents. The only persons of those who were connected by proof with the election were some who voted at the Big Blue precinct in the 10th District, and at Pawnee in the 9th District. Their purposes and character are stated in a former part of this report.

The third charge is entirely groundless. The organic law requires the Governor to cause an enumeration of the inhabitants and legal voters to be made, and that he apportion the members of the Council and House according to this enumeration. For reasons stated by persons engaged in taking the census, it was not completed until the early part of March, 1855. At that time the day of holding the election had not been, and could not have been named by the Governor. As soon as practicable after the returns were brought in, he issued his proclamation for an election, and named the earliest day consistent with due notice as the day of election. The day on which the election was to be held was a matter of conjecture all over the country. But it was generally known that it would be in the latter part of March. The precise day was not known by any one until the proclamation was issued. It was not known to the agents of the Emigrant Aid Society in Boston, on the 15th of March, 1855, when the party of the emigrants before referred to left.

Your Committee are satisfied that these charges were made the more pretexts to induce an armed invasion into the Territory, as a means to control the election and establish Slavery there.

The real purpose is avowed and illustrated by the testimony and conduct of Col. John Scott, of St. Joseph's Missouri, who acted as the attorney for the sitting delegate (Whitfield) before your Committee. The following are extracts from his deposition:

"Prior to the election in Burr Oak precinct, in the 14th District, on the 26th of November, 1854, I had been a resident of Missouri, and I then determined, if I found it necessary, to become a resident of Kansas Territory. On the day previous to that election I settled my board at my boarding-house, in St. Joseph's, Missouri, and went over to the Territory and took boarding with Mr. Bryant, near whose house the polls were held the next day, for one month, so that I might have it in my power, by merely determining to do so, to become a resident of the Territory on the day of election.

"When my name was proposed as a Judge of Elections, objections were made by two persons. I then publicly informed those present that I had a claim in the Territory; that I had taken board in the Territory for a month, and that I could at any moment become an actual resident and legal voter in the Territory, and that I would do so, if I concluded at any time during the day, that my vote would be necessary to carry that precinct in favor of the Pro-Slavery candidate for delegate to Congress.

"I did not during the day consider it necessary to become a resident of the Territory for the purpose mentioned, and did not vote or offer to vote at that election.

"I held the office of City Attorney for St. Joseph's, at that time, and held it for two or three years previously, and continued to hold it until this Spring.

"I voted at an election in St. Joseph's, in the Spring of 1855, and was re-appointed City Attorney. The question of Slavery was put in issue at the election of November, 1854, to the same extent as in every election in this Territory. Gen. Whitfield was regarded as the Pro-Slavery candidate for the Pro-Slavery party. I regarded the question of slavery as the primary prominent issue at that election, and so far as I know, all parties agreed in making that question the issue of that election.

"It is my intention, and the intention of a great many other Missourians now resident in Missouri, whenever the slavery issue is to be determined upon by the people of this Territory in the adoption of the State Constitution, to remove to this Territory in time to acquire the right to become legal voters upon that question. The leading purpose of our intended removal to the Territory is to determine the domestic institutions of this Territory, when it comes to be a State, and we would not come but for that purpose, and would never think of coming here but for that purpose. I believe there are a great many in Missouri who are so situated.

The invasion of March 30, left both parties in a state of excitement, tending directly to produce violence. The successful party was lawless and reckless, while assuming the name of the "Law and Order" party. The other party, at first surprised and confounded, was greatly irritated, and some resolved to prevent the success of the invasion. In some districts as before stated, protests were sent to the Governor, in others, this was prevented by threats; in others, by the want of time, only four days being allowed by the proclamation, for this purpose; and in others, by the belief that a new election would bring a new invasion. About the same time, all classes of men commenced bearing deadly weapons about the person—a practice which has continued to this time. Under these circumstances, a slight or accidental quarrel produced unusual violence, and lawless acts became frequent. This evil condition of the public mind was further increased by acts of violence in Western Missouri, where, in April, a newspaper press called *The Parkville Luminary*, was destroyed by a mob.

About the same time, Malcolm Clark assaulted Cole McGee, at a squatter meeting in Leavenworth, and was shot by McGee, in alleged self-defence.

On the 17th of May, William Phillips, a lawyer of Leavenworth, was first notified to leave, and upon his refusal, was forcibly seized, taken across the river, and carried several miles into Missouri, and then tarred and feathered, and one side of his head shaved, and other gross indignities put upon his person.

Previous to the outrage a public meeting was held at which resolutions were unanimously passed, looking to unlawful violence, and grossly intolerant in their character. The right of free speech upon the subject of slavery was characterized as a disturbance of the peace and quiet of the community, and as "circulating incendiary sentiments." They say "to the peculiar friends of Northern fanatics," "Go home and do your treason where you may find sympathy." Among other resolves is the following:

"Resolved, That the institution of slavery is known and recognized in this Territory; that we repel the doctrine that it is a moral and political evil, and we hunt back with scorn upon its slanderous authors the charge of inhumanity; and we warn all persons not to come to our peaceful friends to slander us, and sow the seeds of discord between the master and the servant; for, as much as we deprecate the necessity to which we may be driven, we can not be responsible for the consequences.

A Committee of Vigilance of 20 men was appointed to observe

and report all such persons as shall \* \* \* by the expression of Abolition sentiments produce disturbance to the quiet of the citizens, or danger to the domestic relations; and all such persons so offending shall be notified and made to leave the Territory."

The meeting was "ably and eloquently addressed by Judge LeCompte, Col. J. N. Burns, of "Western Missouri, and others." Thus the head of the Judiciary in the Territory not only assisted at a public and bitterly partisan meeting, whose direct tendency was to produce violence and disorder, but before any law is passed in the Territory, he prejudices the character of the domestic institutions, which the people of the Territory were, by their organic law, "left perfectly free to form and regulate in their own way."

On this Committee were several of those who held certificates of election as members of the Legislature; some of the others were then, and still are, residents of Missouri, and many of the Committee have since been appointed to the leading offices in the Territory, one of which is the Sheriffship of the County (Jones.) Their first act was that of mobbing Phillips.

Subsequently, on the 25th of May, A. D. 1855, a public meeting was held, at which R. R. Rees, a member elect of the Council, presided. The following resolutions, offered by Judge Payne, a member elect of the House, were unanimously adopted:

"Resolved, That we heartily indorse the action of the Committee of citizens that shaven, tarred and feathered, rode on a rail, and sold by a negro, William Phillips, the moral perjurer.

"Resolved, That we return our thanks to the Committee for faithfully performing the trust enjoined upon them by the Pro-Slavery party.

"Resolved, That the Committee be now discharged.

"Resolved, That we severally condemn those Pro-Slavery men who from mercenary motives, are calling upon the Pro-Slavery party to submit without further action.

"Resolved, That in order to secure peace and harmony to the community, we now solemnly declare that the Pro-Slavery party will stand firmly by and carry out the resolutions reported by the committee appointed for that purpose on the memorable 30th.

The act of moral perjury here referred to, is the swearing by Phillips to a truthful protest in regard to the election of March 30, in the 16th District.

The members receiving their certificates of the Governor, as members of the General Assembly of the Territory, met at Pawnee, the place appointed by the Governor, on the 2d of July, A. D. 1855. Their proceedings are stated in three printed books, herewith submitted, entitled respectively, "The Statutes of the Territory of Kansas;" "The Journal of the Council of the Territory of Kansas;" and "The Journal of the House of Representatives of the Territory of Kansas."

Your Committee do not regard their enactments as valid laws. A Legislature thus imposed upon a people can not affect their political rights. Such an attempt to do so, if successful, is virtually an overthrow of the organic law, and reduces the people of the Territory to the condition of vassals to a neighboring State. To avoid the evils of anarchy, no armed or organized resistance to them should be made, but the citizens should appeal to the ballot box at public elections, to the Federal Judiciary, and to Congress, for relief. Such, from the proof, would have been the course of the people, but for the nature of the enactments, and the manner in which they are enforced. Their character and their execution have been so intimately connected with one branch of this investigation—that relating to "violent and tumultuous proceedings in the Territory"—that we were compelled to examine them.

The "laws" in the statute books are general and special; the latter are strictly of a local character, relating to bridges, roads, and the like. The great body of the general laws are exact transcripts of the Missouri Code. To make them in some cases conform to the organic act, separate acts were passed, defining the meaning of words. Thus the word "State" is to be understood as meaning "Territory," and the words "County Court," shall be construed to mean the "Board of Commissioners transacting county business, or the Probate Court, according to the intent thereof." The words "Circuit Court" to mean "District Court."

The material differences in the Missouri and Kansas statutes, are upon the following subjects: The qualifications of voters and of members of the Legislative Assembly; the official oath of all officers, attorneys and voters; the mode of selecting officers and their qualifications; the slave code and the qualifications of jurors.

Upon these subjects the provisions of the Missouri Code are such as are usual in many of the States. But by the "Kansas Statutes," every officer in the Territory, executive and judicial, was to be appointed by the Legislature, or by some officer appointed by it. These appointments were not merely to meet a temporary exigency, but were to hold over two regular elections, and until after the general election in October, 1857, at which the members of the new Council were to be elected. The New Legislature is required to meet on the first Monday in January, 1856. Thus, by the terms of these "Laws," the people have no control whatever over either the Legislative, the Executive, or the Judicial departments of the Territorial Government, until a time before which, by the natural progress of population, the Territorial Government will be superseded by a State Government.

No session of the Legislature is to be held during 1855, but the members of the House are to be elected in October of that year. A candidate, to be eligible at this election, must swear to support the Fugitive Slave Law, and each Judge of election, and each voter, if challenged, must take the same oath. The same oath is required of every officer elected or appointed in the Territory, and of every attorney admitted to practice in the courts.

A portion of the militia is required to muster on the day of election. "Every free white male citizen of the United States, and every free male Indian who is made a citizen by treaty, or otherwise, and over the age of twenty-one years, and who shall be an inhabitant of the Territory, and of the county and district in which he offers to vote, and shall have paid a territorial tax, shall be a qualified elector for all elective offices." Two classes of persons were thus excluded, who by the organic act were allowed to vote, viz.: those who would not swear to the oath required, and those of foreign birth who had declared on oath their intention to become citizens. Any man of proper age who was in the Territory on the day of election, and who had paid one dollar as a tax to the Sheriff, who was required to be at the polls to receive it, could vote as an "inhabitant," although he had breakfasted in Missouri, and intended to return there for supper. There can be no doubt that this unusual and unconstitutional provision was inserted to prevent a full and fair expression of the popular will in the election of members of the House, or to control it by non-residents.